

AMENDED IN SENATE MARCH 27, 2014

AMENDED IN ASSEMBLY MAY 16, 2013

AMENDED IN ASSEMBLY APRIL 4, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1035

Introduced by Assembly Member ~~Muratsuchi~~ John A. Pérez
(Coauthor: Assembly Member Bonta)

February 22, 2013

~~An act to amend Sections 53895 and 53895.7 of the Government Code, relating to local government. An act to amend Section 5406 of, and to add and repeal Section 5406.7 of, the Labor Code, relating to workers' compensation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1035, as amended, ~~Muratsuchi~~ John A. Pérez. ~~Local agencies: financial reports. Workers' compensation: firefighters and peace officers.~~

Existing law specifies the time period within which various proceedings may be commenced under provisions of law relating to workers' compensation. With certain exceptions, a proceeding to collect death benefits is required to be commenced within one year from several circumstances, including, but not limited to, from the date of death if it occurs within one year from the date of injury. However, no proceedings may be commenced more than one year after the date of death, nor more than 240 weeks from the date of injury.

This bill would, only until January 1, 2019, extend the time period to commence proceedings to collect death benefits, if the proceedings are brought by, or on behalf of, a person who was a dependent on the date

of death, from 240 weeks from the date of injury to no later than 420 weeks from the date of injury, not to exceed one year after the date of death. This provision would apply only to a specified injury causing death, including cancer, tuberculosis, or a blood-borne infectious disease or methicillin-resistant Staphylococcus aureus skin infections, and would apply only to specified deceased members, including peace officers and active firefighting members. The bill would also include legislative findings and declarations.

~~Existing law requires the Controller to annually compile and publish reports of the financial transactions of each county, city, and school district within the state, together with other matters he or she deems of public interest.~~

~~Existing law provides that an officer of a local agency who fails or refuses to make and file his or her financial report within 20 days after receipt of a written notice of the failure from the Controller forfeits to the state a specified amount depending on the amount of total revenue of that local agency. Existing law raises these amounts in the case of a community redevelopment agency and a joint powers agency that issues conduit revenue bonds in the 2nd consecutive year.~~

~~This bill would raise the forfeiture amounts for all agencies.~~

~~This bill would, with respect to an agency that is not a joint powers agency that issues conduit revenue bonds, double these fines if the agency fails to submit the report to the Controller for 2 consecutive years.~~

~~This bill would, for all agencies, triple the fines if the agency fails to submit the report to the Controller for 3 or more consecutive years. The bill would, for an agency that is not a joint powers agency that issues conduit revenue bonds, require the Controller to conduct an independent audit report, the cost of which would be reimbursed by the agency. The bill would specify that an agency that makes a forfeiture or payment pursuant to the above provisions would still be responsible for filing the required financial report.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes-no. State-mandated local program: no.~~

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature finds and declares all of the*
2 *following:*

1 (a) Firefighters and law enforcement officers who contract
2 job-caused illnesses have made the same sacrifice, and earned the
3 same respect, as those who die on the front lines.

4 (b) Often with occupational cancer and certain other job-caused
5 illnesses, an officer's fight for life stretches over year after painful
6 year.

7 (c) The families of those public safety officers who fight to live
8 through a job-related illness should not be penalized after their
9 loved one has made the ultimate sacrifice.

10 (d) With the advances in medical science and health that have
11 been made in recent decades, it is appropriate to examine whether
12 the existing timeline afforded to a survivor in filing workers'
13 compensation survivor death benefits claim provides sufficient
14 time to commence proceedings to collect death benefits.

15 (e) It is the intent of the legislature to provide adequate time
16 for a grieving family to file a claim for job related death benefits
17 without an arbitrary penalty.

18 (f) It is further the intent of the Legislature that the
19 Administrative Director of the Division of Workers' Compensation
20 collect data pursuant to subdivision (a) of Section 3702.2 for the
21 purpose of determining whether the extended statute of limitations
22 established by this act provides an adequate timeline for the
23 families of fallen firefighters and peace officers to commence
24 proceedings for the collection of death benefits as provided for in
25 this act, such that the Legislature and the Governor, when
26 considering any extension of the date of repeal of Section 5406.7
27 of the Labor Code, be informed of the facts surrounding the
28 mortality rate of public safety officers who succumb to these
29 job-related diseases.

30 SEC. 2. Section 5406 of the Labor Code is amended to read:

31 5406. (a) Except as provided in Section ~~5406.5~~ 5406.5,
32 ~~5406.6~~, or ~~5406.6~~, 5406.7, the period within which may be
33 commenced proceedings for the collection of the benefits provided
34 by Article 4 (commencing with Section 4700) of Chapter 2 of Part
35 2 is one year from:

36 ~~(a)~~

37 (1) The date of death ~~where~~ if death occurs within one year from
38 date of ~~injury~~, or injury.

39 ~~(b)~~

(2) The date of last furnishing of any benefits under Chapter 2 (commencing with Section 4550) of Part 2, ~~where if death occurs more than one year from the date of injury; or injury.~~

~~(e)~~

(3) The date of death, where death occurs more than one year after the date of injury and compensation benefits have been furnished.

~~No such proceedings may~~

(b) *Proceedings shall not* be commenced more than one year after the date of death, nor more than 240 weeks from the date of injury.

SEC. 3. Section 5406.7 is added to the Labor Code, to read:

5406.7. (a) In addition to the timelines established pursuant to Section 5406, proceedings for the collection of the benefits provided by Article 4 (commencing with Section 4700) of Chapter 2 of Part 2 may be commenced after 240 weeks from the date of injury and no later than 420 weeks from the date of injury, but in no event more than one year after the date of death, if all of the following criteria are met:

(1) The proceedings are brought for the collection of benefits by, or on behalf of, a person who was a dependent on the date of death. The extent of dependency shall be determined in accordance with the facts as they existed at the time of death of the employee.

(2) The injury causing death is one of the following:

(A) An injury as defined in Section 3212.1 to a person described in Section 3212.1.

(B) An injury as defined in Section 3212.6 to a person described in Section 3212.6.

(C) An injury as defined in Section 3212.8 to a person described in Section 3212.8.

(3) The date of injury is during the person's active service in applicable capacities described in Section 3212.1, 3212.6, or 3212.8.

(b) This section does not apply to claims for the collection of benefits pursuant to Article 4 (commencing with Section 4700) of Chapter 2 of Part 2 that have already been adjudicated, or otherwise finalized, or for which the commencement period lapsed on or before December 31, 2014.

1 (c) *This section shall remain in effect only until January 1, 2019,*
2 *and as of that date is repealed, unless a later enacted statute, that*
3 *is enacted before January 1, 2019, deletes or extends that date.*

4 ~~SECTION 1. Section 53895 of the Government Code is~~
5 ~~amended to read:~~

6 ~~53895. (a) An officer of a local agency to which Section~~
7 ~~53895.7 does not apply who fails or refuses to make and file his~~
8 ~~or her report within 20 days after receipt of a written notice of the~~
9 ~~failure from the Controller shall forfeit to the state:~~

10 ~~(1) Two thousand five hundred dollars (\$2,500), in the case of~~
11 ~~a local agency with total revenue, in the prior year, of less than~~
12 ~~one hundred thousand dollars (\$100,000), as reported in the~~
13 ~~Controller's annual financial reports.~~

14 ~~(2) Five thousand five hundred dollars (\$5,500) in the case of~~
15 ~~a local agency with total revenue, in the prior year, of at least one~~
16 ~~hundred thousand dollars (\$100,000) but less than two hundred~~
17 ~~fifty thousand dollars (\$250,000), as reported in the Controller's~~
18 ~~annual financial reports.~~

19 ~~(3) Ten thousand dollars (\$10,000) in the case of a local agency~~
20 ~~with total revenue, in the prior year, of at least two hundred fifty~~
21 ~~thousand dollars (\$250,000), as reported in the Controller's annual~~
22 ~~financial reports.~~

23 ~~(b) If an officer of a local agency fails or refuses to make and~~
24 ~~file his or her report within 20 days after receipt of a written notice~~
25 ~~pursuant to subdivision (a) for two consecutive years, the officer~~
26 ~~shall forfeit an amount that is double the amount of the forfeiture~~
27 ~~assessed pursuant to subdivision (a).~~

28 ~~(c) If an officer of a local agency fails or refuses to make and~~
29 ~~file his or her report within 20 days after receipt of a written notice~~
30 ~~pursuant to subdivision (a) for three or more consecutive years,~~
31 ~~the forfeiture assessed pursuant to subdivision (a) shall be tripled.~~
32 ~~In this case, the Controller also shall conduct, or cause to be~~
33 ~~conducted, an independent financial audit report. With respect to~~
34 ~~a joint powers agency, the audit report shall be consistent with~~
35 ~~Section 6505. The agency shall reimburse the Controller for the~~
36 ~~cost of complying with this subdivision.~~

37 ~~(d) A forfeiture or payment made pursuant to this section shall~~
38 ~~not relieve an agency of its obligation file the report required~~
39 ~~pursuant to Section 53891.~~

~~(e) Upon the request of the Controller, the Attorney General shall bring an action for the forfeiture in the name of the people of the State of California.~~

~~(f) Upon satisfactory showing of good cause, the Controller shall waive the forfeiture requirements of this section.~~

~~SEC. 2.— Section 53895.7 of the Government Code is amended to read:~~

~~53895.7. (a) For the purpose of this section, “agency” means any agency or entity formed pursuant to the Joint Exercise of Powers Act (Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1) that issues conduit revenue bonds.~~

~~(b) An officer of an agency who fails or refuses to make and file his or her report pursuant to this article within 20 days after receipt of a written notice of the failure from the Controller shall forfeit to the state:~~

~~(1) Two thousand five hundred dollars (\$2,500) in the case of an agency with total revenue, in the prior year, of less than one hundred thousand dollars (\$100,000), as reported in the Controller’s annual financial reports.~~

~~(2) Five thousand five hundred dollars (\$5,500) in the case of an agency with total revenue, in the prior year, of at least one hundred thousand dollars (\$100,000), but less than two hundred fifty thousand dollars (\$250,000), as reported in the Controller’s annual financial reports.~~

~~(3) Ten thousand dollars (\$10,000) in the case of an agency with total revenue, in the prior year, of at least two hundred fifty thousand dollars (\$250,000), as reported in the Controller’s annual financial reports.~~

~~(c) An officer of an agency who fails or refuses to make and file his or her report within 20 days after receipt of a written notice of the failure from the Controller in the second year shall forfeit to the state:~~

~~(1) Five thousand dollars (\$5,000) in the case of an agency with total revenue, in the prior year, of less than one hundred thousand dollars (\$100,000), as reported in the Controller’s annual financial reports.~~

~~(2) Eleven thousand dollars (\$11,000) in the case of an agency with total revenue, in the prior year, of at least one hundred thousand dollars (\$100,000), but less than two hundred fifty~~

1 thousand dollars (\$250,000), as reported in the Controller's annual
2 financial reports:

3 ~~(3) Twenty thousand dollars (\$20,000) in the case of an agency~~
4 ~~with total revenue, in the prior year, of at least two hundred fifty~~
5 ~~thousand dollars (\$250,000), as reported in the Controller's annual~~
6 ~~financial reports.~~

7 ~~(d) In the case of an agency that fails or refuses to make and~~
8 ~~file its report within 20 days after receipt of a written notice of the~~
9 ~~failure from the Controller for three or more consecutive years,~~
10 ~~the forfeiture amount shall be triple the amount described in~~
11 ~~subdivision (b). The Controller shall conduct, or cause to be~~
12 ~~conducted, an independent financial audit report consistent with~~
13 ~~the requirements of Section 6505. The agency shall reimburse the~~
14 ~~Controller for the cost of complying with this subdivision.~~

15 ~~(e) (1) Upon the request of the Controller, the Attorney General~~
16 ~~shall bring an action for the forfeiture in the name of the people~~
17 ~~of the State of California.~~

18 ~~(2) Upon a satisfactory showing of good cause, the Controller~~
19 ~~shall waive the forfeiture requirements of this section.~~

20 ~~(f) A forfeiture or payment made pursuant to this section shall~~
21 ~~not relieve an agency of its obligation to file the report required~~
22 ~~pursuant to Section 53891.~~